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Marlene Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 Twelfth Street
Washington, D.C. 20054

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re: *Ex parte* filing in ET Docket 01-278

Dear Ms. Dortch:



BOSTON
DALLAS
DELAWARE
NEW YORK
SAN DIEGO
SILICON VALLEY
TWIN CITIES
WASHINGTON, DC

Lifeline, Inc. by its counsel, hereby files a copy of a letter sent to Mr. Fredrick R. Wentland Acting Associate Administrator, Office of Spectrum Management, National Telecommunications and Information Administration ("NTIA") concerning NTIA's opposition to the Commission's proposal to remove the restriction on video, voice and data transmissions under Section 15.231(a) of the Commission's rules.

If there are any questions, please call me.

Very truly yours,

Robert J. Ungar

041.

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Mr. Fredrick R. Wentland
Acting Associate Administrator
Office of Spectrum Management
National Telecommunications and
Information Administration
United States Department of Commerce
Washington, D.C.



Re: Review of Part 15 and Other Parts of the Commission's Rules, ET Docket
No. 01-278

BOSTON

DALLAS

DELAWARE

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

Dear Mr. Wentland:

This letter is on behalf of Lifeline Systems, Inc. ("Lifeline"). Lifeline is a leading manufacturer of radio frequency devices in the health care industry and will be directly affected by the outcome of the above-referenced proceeding. Lifeline supports the Federal Communications Commission's ("Commission") proposal to amend Section 15.231(a) to remove the restriction against voice and data transmissions. Indeed, like many other companies, anticipating no objection to the Commission's proposal, Lifeline is planning upgrades of its products. It was surprising and disheartening to learn from your comments to the Commission that NTIA opposes the proposal.

It is noted initially that the NTIA opposition to the proposal to permit voice and data transmissions under Section 15.231 is unaccompanied by analysis and does not argue that government facilities will be adversely affected. Rather, the argument seems only to be that by permitting voice and data transmissions, there will be some greater amount of transmissions generally and that this is a bad thing. Such similar reasoning, by the Commission, was responsible for the existing prohibition against voice and data. But the Commission, after years of administering the rule, has learned that to the extent there will be more transmissions, there will also be more useful transmissions. Moreover, the Commission has recognized the obvious, that by permitting the transmission of data for recognition codes, it has only created a situation where industry is forced to transmit necessary data in the guise of recognition codes, and by permitting the periodic transmissions of polling and supervisory information, it is, in fact, permitting the transmission of data, albeit on a non-continuous basis, thus forcing more costly and complicated systems. In other words, by constructing a

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regulatory scheme with artificial barriers, the Commission has, in effect, encouraged people to game the system.

Although, it is possible that removing the voice and data restrictions will increase transmission time on some frequencies, the extent, if any, is not at all clear, and NTIA does not attempt to venture any reasoned estimate. Nor does NTIA suggest that there will be significant impact on any critical government use of the spectrum. Instead, NTIA gives examples of the types of transmissions that might occur. One is the use of a remote weather reporting station that could automatically update weather changes and which, according to NTIA, might be transmitting all the time; the other is a push-to-talk walkie talkie that NTIA believes would be allowed under Section 15.231. These two examples are puzzling, since, clearly the Commission did not intend such activity under the rule. Transmissions of weather data or walkie talkie conversations are just not control signals and would not be permitted under Section 15.231. It is apparent, however, that the confusion has been caused by the Commission, itself. Although the heading of the pertinent section of the Notice reads: "Data Transmission by Remote Control Devices," the Appendix to the Notice, in which the actual proposed rule changes are delineated, contains no reference to control devices at all. Apparently, in editing Section 15.231(a) to show the proposed rule changes, the Commission was overzealous and, while it intended to remove only the restriction on voice, video and data transmissions, instead it removed these restrictions as well as the language defining the rule's very application – to control signals. Lifeline believes this was unintentional.

In fact, the Commission's proposal to remove the voice and data restrictions can only be understood in the context of the rule's intended, continuing application - to control signals and to certain periodic polling transmissions used in security **or** safety applications. The right to transmit voice or data within the strictures of these rules simply cannot result in the types of transmissions NTIA suggests. Neither of NTIA's examples could be considered a control signal, and certainly not a periodic transmission. The use of data or voice transmissions within the context of what Section 15.231 is intended to permit (control signals or security and safety polling) can only enhance the utility of certain devices, not create the opportunity for new communications services.

Essentially then, the FCC is proposing to permit data or voice transmissions under Section 15.231 only as ancillary to the types of transmissions already approved, not for new applications having nothing to do with control signals or security and safety polling. It appears that NTIA may have responded – with some justification – to the Notice's misleading Appendix and has filed its comments to an unintended proposal.


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Lifeline respectfully urges NTIA to consider these issues, resolve this matter with the Commission staff, and modify its comments accordingly so that the Commission can move on with its consideration *of* the issues in the Docket.

If you have any questions, please contact us.

Very truly yours,



Terry G. Mahn
Robert D. Ungar

Counsel for Lifeline Systems, Inc.